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April 27, 2001

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 U.S. Bureau of Reclamation
 515 Ninth Street, Room 101
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Dear Mr. Parr:

As provided by federal law, I am hereby submitting comment on behalf of the South Dakota Department of Environment and Natural Resources (DENR) for the Angostura Unit Contract Negotiation and Water Management Draft Environmental Impact Statement (DEIS).

1. The DEIS, at 22, para. 2, provides that "Reclamation would establish a public process to determine how best to use the saved water." [It should be recognized that the Bureau of Reclamation's (BOR) authority to decide how any saved water will be used or allocated is limited by state and federal law as well as the BOR's own operating criteria.] Federal law defers to state law in this regard (43 U.S.C. § 383, Section 8 of the Reclamation Act of 1902 codified at 43 U.S.C. § 383). South Dakota granted the limited use U.S. Withdrawal License 579-2 to the BOR for an annual one-time fill of 138,761 acre-feet storage in Angostura Reservoir for irrigation of 12,218 acres of land and for fish, wildlife, recreation, and other purposes (Exhibit 1).

2. U.S. Withdrawal License 579-2 requires that "flows (not exceeding inflows) shall be released as needed for downstream domestic use, including livestock watering and prior downstream water right use." South Dakota law recognizes that domestic water use has priority over all other uses. SDCL 46-5-1. Presently, return flows from the Angostura Irrigation District (the District) and leakage from Angostura Reservoir satisfy prior downstream water rights and domestic use. [The Improved Efficiencies Alternative may lessen the District's water demands, thereby also lessening irrigation return flows to the Cheyenne

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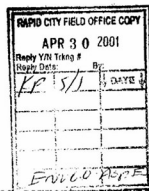
3. River. This could result in insufficient flow in the Cheyenne River to satisfy prior downstream water rights and domestic use.] Such a scenario would require enough water be released from Angostura Reservoir to satisfy prior rights and domestic use, possibly negating any water saved by improved efficiencies within the District. [Further, the allocation or use of increased flows in the Cheyenne River upstream or downstream of the Unit's boundaries resulting from any alternative proposed in the DEIS would be governed by South Dakota law. Changes to U.S. Withdrawal License 579-2 may be needed] depending on the nature of in-stream flow resulting from any proposed alternative. The principles of abandonment and forfeiture shall apply, and the South Dakota Water Management Board must approve changes in water use or land irrigated within the Unit.

- 4.2. [The BOR itself lacks authority over the use or allocation of water outside the Unit's boundaries and outside U.S. Withdrawal License 579-2. Water allocation and use within the Unit's boundaries must be consistent with South Dakota law and the authority granted BOR under U.S. Withdrawal License 579-2 (Exhibit 1).

The BOR itself describes and considers the project area as "entirely within Fall River and Custer Counties." See Exhibit 2, which contains a 1977 map and explanation of the project area. Also, Figure 2.1 of the DEIS which defines the boundaries of the Angostura Unit (the Unit).

Yet, according to the DEIS, the area studied is the Cheyenne River drainage from just above Angostura Reservoir to the joining of the Cheyenne River with the Missouri River about 275 river miles downstream in central South Dakota. DEIS, at 5. Figure 1.1 of the DEIS shows approximately a ten-mile corridor extending from the Angostura reservoir 275 miles downstream. Thus, the DEIS proposes to consider an area of approximately 2,750 square miles. This scope appears to the State of South Dakota to be unduly expansive when considering that the project area itself is much smaller. Neither the NEPA process nor Reclamation contracts can be used to increase the size of the project.]

There cannot be any serious question as to the size of the project either. As the DEIS acknowledges, the Angostura Unit was authorized in 1939 and then "reauthorized by the Flood Control Act of 1944." DEIS, at 7. As is well understood, Congress, in S. Doc. No. 247, 78th Cong., 2d Sess. (1944), essentially combined the Pick Plan, S. Doc. No. 191, 78th Cong., 2d Sess. (1944) and the Sloan Plan, H.R. Doc. No. 475, 78th Cong., 2d Sess. (1944). Thus, to determine what Congress authorized in 1944, it is necessary



1. Reclamation intends to comply fully with State law. Reclamation's use of saved water in the Improved Efficiencies Alternative would be under the *other beneficial use* provision of Reclamation's withdrawal water license, with the provision that outflows not exceed inflows. Reclamation also believes that the Pick-Sloan Act identified benefits for the OST that have not been realized.

2. The only concern identified by the South Dakota Department of Environment and Natural Resources for downstream flows was between Angostura Dam and Fall River. To date, flows have been satisfied by the 3-5 cfs seepage from the reservoir. The analyses in the EIS show that releases from the reservoir in the Improved Efficiencies Alternative would range from 68.9-88.8 cfs on an average annual basis (see Table 4.10), compared to the present 60.2-68.4 cfs (Table 4.4). It's true that return flows would be reduced in the Improved Efficiencies Alternative.

3. The State and other interested parties would be consulted if any changes in flows occurred as a result of this EIS. The U.S. withdrawal water license might require changes.

4. NEPA and other environmental laws require agencies to look beyond project boundaries (and authorized project purposes) in order to fully analyze impacts. The National Historic Preservation Act, for instance, requires agencies to assess impacts on historic properties within the *area of potential effect* (or APE), rather than just within the boundaries of projects. Reclamation therefore determined the APE under NHPA to include the Angostura Unit, District, and the Cheyenne River downstream to the west boundary of the Cheyenne River Reservation (see p. 101 of the EIS).

to examine the Senate Document which does, in fact, reveal the intended scope of the Angostura project. S. Doc. No. 191, at 76, states:

One other reclamation project has been authorized, namely, the Angostura project in the southwest part of the Cheyenne River watershed, where, by the construction of Angostura Reservoir with a capacity of 160,000 acre feet, water can be supplied by gravity to a 16,000-acre project in the vicinity of Hot Springs, South Dakota, and to 25,300 acres in forty-nine scattered pumping units along the lower reaches of the river, and 5,030 acres along the lower Belle Fourche River. A reservoir of 45,000 acre foot capacity on Beaver Creek, in Wyoming, will furnish a water supply for 8,000 acres in the Edgemont project along the Cheyenne River, all of which lies in South Dakota above the Angostura project.

S. Doc. No. 191, at 78, sets out in table form the authorized reservoir, including Angostura, with a total capacity of 160,000 acre feet for purposes of irrigation, pumping, power, flood, and silt control. Exhibit 3. Nothing in the congressional authorization of the Angostura Reservoir leads one to the conclusion that the project should be considered to cover 2,750 square miles at a length 275 miles from the reservoir itself.

Similarly, the Upper Missouri Region, Bureau of Reclamation, describes the Angostura Unit in much more modest terms than the area studied by the DEIS. According to a section of the Project Data Book, Region Revision 10/82, Upper Missouri Region, Bureau of Reclamation, Pick-Sloan Missouri Basin Program, Angostura Unit:

The Angostura Unit is the Great Plains region at the southeast edge of the Black Hills in southwestern South Dakota. . . . The unit lies within Custer and Fall River Counties of South Dakota. . . . The unit lands, consisting of 12,218 acres extending along the Cheyenne River approximately twenty-four miles downstream from the dam, are served by the Angostura Canal.

Id. at 1. Exhibit 4. Recreation benefits are described in terms of activities within the project area:

Activities associated with outdoor recreation around the Angostura Reservoir include picnic sites, campgrounds, marinas, swimming beaches and

areas for seasonal use cabins. All recreational areas and facilities, including fishery in the reservoir, are administered by the South Dakota Department of Game, Fish and Parks.

Id. at 2-3. Exhibit 4. Again, the description of the project is limited to the project area and does not extend 275 miles downstream.

The scope of the project is, moreover, limited by the water right which the United States obtained from the State of South Dakota. The United States began the water right process on April 11, 1941, by filing a document entitled a "U.S. Withdrawal" under South Dakota law. It supplemented and amended that filing on March 12, 1946. *See* State of South Dakota, United States Withdrawal Water License 579-2, Angostura Reservoir-Angostura Project (Water Rights Commission Nov. 26, 1973). Exhibit 1.

The license recites the actual use of the water up until the time of the grant of the license--1973--and limits the water right to that use. According to the license, the United States was certified to have completed construction of the Angostura Reservoir and was entitled to "an initial water storage fill . . . and an annual replenishment of storage . . . and it is hereby certified that the supply and distribution system has been completed as shown by the Bureau of Reclamation, Angostura Unit . . . and the recreation development around Angostura Reservoir has been completed as shown by" Bureau of Reclamation Angostura Reservoir maps.

The United States was therefore licensed for water it actually had used for the purposes it had been used. In addition, it was specified that:

Flows (not exceeding inflows) shall be released as needed for downstream domestic use, including livestock water, and prior downstream water right use

Thus, like other permanent water rights, this water right was subjected to the downstream domestic use priority and the priority for prior downstream water right use. Because the contract at issue is ultimately dependent on this state-created water right, the scope of the DEIS ought to conform to it.

3. Classifying Bennett County as part of the Pine Ridge Reservation is not acceptable to the State of South Dakota. The Eighth Circuit Court of Appeals has held that Bennett

- 5 County was "severed" from the Pine Ridge Reservation by Congress by the Act of May 27, 1910, 36 Stat. 440. United States ex rel. Cook v. Parkinson, 525 F.2d 120 (8th Cir. 1975), cert. denied, 430 U.S. 980 (1977). [The status of Bennett County and the current boundary of the Pine Ridge Reservation as depicted on the maps (Figures 1.1 and 3.1), along with the clarifying statement in the DEIS, are acceptable.]
- 6 4. [The DEIS comment on fisheries is wrong in part as a matter of law and wrong on the facts.] The DEIS, at 98, includes implications about the validity of tribal fishing rights based upon Article 5 of the Treaty of 1851, 11 Stat. 749 (1851). The comments of the DEIS leave a misleading impression, and therefore it is necessary to look more deeply at Article 5 and at the Treaty of 1851. First, it is important to note that the Treaty of 1851 did not itself create any reservation. See Montana v. United States, 450 U.S. 544, 558 (1981). Rather, the purposes of the treaty were to resolve a conflict between the many tribes which occupied the Great Plains, 450 U.S. at 557, to "assure safe passage for settlers across the lands of various Indian Tribes." Id.
- Article 5 of the 1851 Treaty, which is referred to in the text of the DEIS, performs a different function than that suggested by the DEIS. Article 5 delineates the boundaries of the territory of the various tribes. For example, it delineates, with specificity, the "territory of the Sioux or Dahcotah Nation . . . [t]he territory of the Gros Ventre, Mandans, and Arrickaras Nations . . . [t]he territory of the Assinaboin Nation . . . the [t]erritory of the Blackfoot Nation . . . [t]he territory of the Crow Nation . . . [t]he territory of the Cheyennes and Arrapahoes." After setting out that delineation, the same Article states that it is "understood that, in making this recognition and acknowledgement, the aforesaid Indian nations . . . do not surrender the privilege of hunting, fishing, or passing over any of the tracts of country heretofore described."
- Article 5 thus recognized that the Sioux would have the privilege, such that it may have then existed, of hunting, fishing, or passing over, for example, the lands of the Gros Ventre, Blackfoot, Crow, and Cheyenne. Similarly, this section recognized that the Gros Ventre would hunt, fish, or pass over, insofar as they then possessed that privilege, on the territory of the Sioux or the Blackfoot. Nothing in the text or background of this language indicates that the Treaty of 1851 was intended to create any hunting or fishing right, or to assert that fishing had some broad economic or spiritual significance.

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- 7 In any event, the treaty that followed (Treaty of 1868, 15 Stat. 635 (1868)) effectively extinguished Article 5 of the 1851 Treaty, insofar as it recognized rights which extended to the territory of the several other tribes. In place of this right, the Sioux were granted an "off reservation" right to hunt buffalo on lands described in Article 11, but only for so long as they were sufficiently numerous as to "justify the chase." Article 11, Treaty of 1868. [In addition, the Treaty, in Article 16, recognized certain lands north of the "North Platte River east of the summits of the Big Horn Mountains" as "unceded Indian territory." These lands are not relevant to the issue raised by the DEIS, however.]
- Thus, Article 5 of the Fort Laramie Treaty was not, as implied, a pointed reference to the economic importance of fishing to the Sioux, but rather was simply a recognition that the several named tribes each retained hunting and fishing rights in the territory of the other tribes, such as they then existed. Even those rights, however, were extinguished in 1868. For a comprehensive judicial examination of this matter, see State v. Tyon, No. 47295, Findings of Fact and Conclusions of Law (8th Judicial Circuit, Magistrate Court, Oct. 12, 1999) (Exhibit 5).
- 8 With regard to the fisheries discussion set out in the DEIS, at 98-100, the State submits that the writers of the DEIS were on the right track when, in the first part of the comment, they essentially recognized the unimportance of fishing to the Sioux. [The only evidence offered to contradict that thesis is an essentially uninformative six-and-a-half-page report by Edward Walker.] Appendix Y-1. No references are given for Mr. Walker, and it is certainly not established that he is an expert.
- Moreover, the report must be regarded with great caution because it relies upon anonymous sources and, moreover, was prepared specifically to influence the outcome of the DEIS and FEIS in this matter. When similar documents are submitted in judicial proceedings, there is the possibility for cross-examination of the expert as to their validity. Given that there is no such possibility here, a healthy skepticism as to its content is merited.
- 9 [Although the DEIS states that Walker "documented" thirty-eight species which are "culturally significant," the so-called "documentation" is nothing but a list of fish.] The report contained in the DEIS includes no description as to the criterion, if any, for determining that a fish was "culturally significant," and no data is cited by which an

5. Noted.

6. Reclamation acknowledges disagreement about the interpretation of the Treaty of 1851. As stated on p.i in the EIS, Reclamation is required to consult with the Tribes on Indian Trust Assets. The Tribes considered fisheries to be a trust asset (pp. 97-100 of the EIS). Reclamation made no judgement about the importance of fish in the Lakota diet; we merely acknowledged that fish were part of it.

7. The area in red crosshatching in Fig. 1.1 represents the Cheyenne River drainage into the Angostura Unit.

8. As a cooperating agency for the EIS, the CRST submitted the Walker report.

9. "Documented" had been changed to "listed" in the final EIS as suggested.

expert could determine whether or not the analysis was in any way valid. The report contains no "documentation" of anything regarding the list of fish in the Walker report. Appendix Y-2.

Finally, the State notes that the comments of Mr. Walker ignore not only the evidence set out in the DEIS as to the unimportance of fishing to the Sioux, but also ignore other evidence. For example, Michael Lawson, a former BIA researcher, has stated, speaking of the Cheyenne River and Standing Rock Sioux, that:

Though the [Missouri] River contained a wide variety of fish, the Indians never learned to exploit this food source and forms of water recreation such as swimming and boating were also uncommon activities.

Lawson, Reservoir and Recreation: the Oahe Dam and the Cheyenne River Sioux, 37 South Dakota Historical Collections 102, 158 (1974) (Exhibit 6). Similarly, House and Senate reports during the late forties and early fifties indicated that, with regard to the Cheyenne River and Standing Rock Reservations:

Fishing is not important on either reservation at the present time.

H.R. Rep. No. 1047, 81st Cong., 1st Sess. 4 (1949); S. Rep. No. 1737, 81st Cong., 2d Sess. 5 (1950) (Exhibits 7 and 8). There is no evidence to demonstrate that the Oglala Sioux were more sedentary, or more likely to fish, than the Sioux at Cheyenne River or Standing Rock.

10. [Determination of water rights and priority dates are outside the scope of this EIS.] Also, this EIS is not the platform or forum to resolve any disagreement between the State of South Dakota and the Tribes concerning water rights as the BOR lacks authority in this area. Such an issue would be resolved by either of two recognized procedures: (1) compact negotiations with agreements approved by the U.S. Congress or (2) court adjudication.

It is clear that the satisfaction of a tribal water right is not one of the purposes of the Flood Control Act of 1944, is not recited in the 1982 Project Data Book, and is not stated as a purpose of the South Dakota water right. The DEIS appears to acknowledge as much, at least indirectly.

In this context, the State believes that it is quite inappropriate for the DEIS to engage in a discussion of the

potential statutory or treaty basis for a user of water right. See DEIS, at 10-11. If such a discussion is to proceed, however, the DEIS needs to be clarified. First, it appears probable that if either of the mentioned tribes were to attempt to establish a Winters right, the tribe would have to establish "practically irrigable acreage" of particular lands associated with the Cheyenne River. See Arizona v. California, 373 U.S. 576, 600-601 (1963) (Arizona I). Arizona I concluded that, in the case then before it, "the only feasible and fair way by which reserved water for reservations can be measured is irrigable acreage." Id.

In a subsequent case in the Arizona litigation, the Court rejected an open-ended decree which would have allowed a tribe to divert "at any particular time all the water reasonably necessary for its agricultural and related uses." Arizona v. California, 460 U.S. 605, 623 n.15 (1983) (quoting Report of Special Master). The Court rejected the approach, finding that it would create uncertainty for junior appropriators and make it difficult for those appropriators to obtain financing for irrigation projects. Id. at 617. Other courts, elaborating on the Arizona ruling, have set forth a three-part analysis requiring determination of the irrigability of lands, a determination of the engineering feasibility of irrigating those lands determined to be irrigable, and a cost benefit analysis to determine if the cost of irrigation was reasonable. See In re Big Horn River System, 753 P.2d 76, 101 (Wyo. 1988).

11. [There are, of course, no studies in evidence with regard to this DEIS to determine irrigability, feasibility of irrigating lands, or cost benefit analyses with regard to the Pine Ridge or Cheyenne River Reservations.] Thus, it seems quite premature to attempt to address any Winters claim. Given the general nature of lands in western South Dakota, however, it can be said with some confidence that it is unlikely that there is a substantial Winters water right connected with the Cheyenne River on either reservation.

The DEIS, however, need not approach these questions. In fact, the state water right granted to the United States requires release of flows, not exceeding inflows, to satisfy "prior downstream water right use." Presumably, if it were shown in the proper forum that a Winters right did exist, and if it were shown that the Angostura water right interfered with that downstream water right, and that the downstream water right was a prior right, waters subject to United States Withdrawal Water License 579-2, as granted by the State of South Dakota to the Department of the Interior, would simply have to be bypassed.

10. Reclamation agrees. The EIS doesn't try to resolve water rights; it does, however, acknowledge that the Tribes' reserved water rights exist and that resolution could affect water available for other uses (pp. 97-98 of the EIS). The Tribes have cooperating agency status—like the State—for this EIS. Also, Reclamation is required to consider Indian Trust Assets (including water rights) as well as environmental justice questions during the NEPA process.

11. Studies have been done on the irrigability of the Pine Ridge Reservation. The latest of these studies is Corke 1994 (see p. 178 of the EIS).

- 12 6. [The reliance on "population estimates provided by the BIA" is inappropriate.] The DEIS, at 95, indicates that the document relies upon BIA statistics, and not United States Census statistics, to provide an accurate count of Indians and tribal members on the reservation. This is inappropriate for the BIA numbers are inaccurate. The DEIS states, at 95:

BIA estimates usually provide a more accurate estimate of Reservation population because they correspond more closely with Tribal enrollment figures and more correctly measure the number of Native Americans using services on the Reservation. BIA estimated the service area population [of the Pine Ridge Reservation] at 20,806 in 1991 and 38,246 in 1995. The 1995 estimate is probably the most representative of the Reservation population.

The foregoing analysis is incorrect in its assumptions and conclusions. The most current available survey is the "1997 Labor Market Information on the Indian Labor Force--A National Report" (hereinafter "1997 Labor Market Information" (Exhibit 9)). While the report is published by the BIA, it is not based on BIA data. According to the document, "This report provides the 1997 estimates of tribal service populations and labor market information for the nation's 554 tribes, as determined by representatives of each tribe and as certified as accurate by their tribal leader or designate." *Id.* at 1 (emphasis added). The Bureau of Reclamation should first indicate, therefore, that the estimates are not those of the BIA.

- 13 [Second, these estimates are not checked by the BIA, the Department of Census, or any other federal bureau.] In *Yankton Sioux Tribe v. Gaffey*, Civ. No. 98-4042, the Assistant United States Attorney General attempted to rely upon "1997 Labor Market Information" to establish the population of the Yankton Sioux Tribe in a particular area. Exhibit 10. Under questioning by the court, it was revealed that the BIA estimate of Indian population rose from approximately 4,000 to 6,500 in two years. Exhibit 10, at 71. Under cross-examination by the State, the following testimony emerged:

Q Your numbers show for the Yankton area 2,900 in 1991, 4,053 in 1993 and 6,528 in 1995, is that right?

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A [By BIA superintendent] That's what they represent, yes.

Q You don't believe those numbers are actually correct, do you?

A I--in--in my answer to Judge Piersol when I said, you know, I just--I really haven't noticed the, you know, just like--I don't know how to describe it, but an impact so great and so noticeable, I--I haven't seen that. That's what I'm saying.

Q Your personal observations wouldn't support the accuracy of these numbers, is that right?

A What I will say is that that reservation population has dramatically increased. I do not know if it has increased to the 6,000 number that's represented in the '95 report.

Q And you haven't tried to put these numbers against not only the old cen--not only the old census numbers which are part of the record in this case, but against the current census records, have you?

A I haven't, no.

Id.

- 14 [Third, the statistics in the DEIS are facially unbelievable.] The report relied upon, as noted above, indicated the service area population of the Pine Ridge Reservation at 20,806 in 1991 and, just four years later, at 38,246. DEIS, at 95. This would require, of course, a doubling in the need for housing and social services within the area and would have caused a gigantic disruption in the area. The claim of such a dramatic increase should not be credited by the Bureau of Reclamation or any other agency of the United States.

- 15 [Fourth, it is inaccurate to assert that the BIA's estimates generally provide a more accurate estimate "because they correspond more closely with tribal enrollment figures."] DEIS, at 95. The BIA's estimates generally do not correspond closely with tribal enrollment figures and are often dramatically different. For example, the "1997 Labor Market Information" statistics put tribal enrollment at Flandreau at 683, and the service area population at 1,798. Thus, resident service population was about triple the

12. Population figures for the Pine Ridge Reservation were obtained from the latest Census and from the Bureau of Indian Affairs (p. 95 and Table 3.36 in the EIS). Two sources were analyzed in order to present a balanced socioeconomic description of the Reservation. It's understood that differences in opinion might exist about how information was developed for the Reservation population.

13. You're correct that the 1995 *Labor Market Information on the Indian Labor Force* was published by BIA relying on surveys conducted by each tribe. This will be stated in the final EIS. While there might be some concern about the accuracy of the OST's service population estimate, it was decided to present this information for a balanced socioeconomic description.

14. Population data was taken from both the latest Census and the latest Bureau of Indian Affairs reports when the section was written (see p. 95 of the EIS). This was the best and latest information available. Census data served several purposes: To present one (of the two) sources on size of the Reservation population; to indicate past and future population growth; and to compare to Census data used for the Angostura area. Recognizing concerns about Census data, it was decided to include population estimates from BIA's 1995 *Labor Market Information on the Indian Labor Force*. The Reservation's 1995 *Total Indian Resident Service* population of 38,246 was included (p. 95), as well as the 1991 *Resident Service* population of 20,806. For the final EIS, the population estimates will be updated based on the 2000 Census and BIA's 1997 *Labor Market Information on the Indian Labor Force*, the published estimates available to Reclamation.

15. Significant differences exist between the enrollment population compared to the resident service population for the Tribes mentioned in your comment. The Pine Ridge Reservation's Tribal enrollment and resident service population are fairly close, however.

tribal enrollment. In contrast, at Lower Brule, the tribal enrollment was 2,355, and the Indian resident service population was 1,263, or roughly half.


- 16** [Finally, the Bureau of Reclamation has no grounds to reject the just completed United States Census.] The United States Census states, for the Pine Ridge Reservation, that the year 2000 total population is 15,507, of whom 14,295 are American Indian. Exhibit 11. If the Bureau of Reclamation credits the BIA's estimate (which credits tribal estimates), it essentially asserts that the Census missed about 23,000 persons on that reservation or, indeed, missed more than it counted.

In this regard, it is appropriate to point to the very concentrated effort of the United States Census Bureau to ensure that all American Indians were in fact counted nationally and in South Dakota. The Department of Census has estimated that the percent net undercount for American Indians on reservations in 2000 fell to approximately 4.74 percent. See 66 Fed. Reg. 14,007 (Mar. 8, 2001).

- 17** [Unless the Bureau of Reclamation can undermine these figures with extremely compelling evidence, it has no alternative but to accept them and to reject the BIA statistics set out at DEIS, at 95.]

Thank you for allowing us this opportunity to provide comments to the DEIS.

Sincerely,



John P. Guhin
Deputy Attorney General
Counsel for South Dakota
Department of Environment
and Natural Resources

JPG/dh
Enclosures

- 16.** The purpose of the socioeconomic analysis in the EIS was to provide a balanced socioeconomic description of the Reservation, given the available information. The latest estimates from the Census and BIA's *Labor Market Information on the Indian Labor Force* will be presented in the final EIS. The difference in opinion as to the accuracy of both sources will be included.

- 17.** See the response to your comment No. 15 above.